

the fourth stage in which the masses, seeing the operation of ambition, venality, and despotism in the officers of the institution created to meet a popular demand, denounce it and turn against it to destroy it.

262. Torture *in* civil and ecclesiastical trials. (See sec. 237 ff.) In the course of its work the Inquisition had introduced torture into the administration of Christian justice and into the mores. The jurists were all corrupted by it. They supposed that, without torture, no crimes could be detected or punished, and this opinion ruled the administration of justice on the continent until the eighteenth century.<sup>1</sup> Lea finds the earliest instances of legal torture in the Veronese Code of 1228, and in the Sicilian Constitutions of 1231 ; — work of the rationalist emperor, Frederick II, but it was " sparingly and hesitatingly employed." Innocent IV adopted it in 1252, but only secular authorities were to use it. This was to save the sanctity of ecclesiastics. In 1256 Alexander IV, "with characteristic indirection," authorized inquisitors and their associates to absolve each other, and grant dispensations for irregularities. This gave them absolute liberty, and they could inflict or supervise torture.<sup>2</sup> There were other " poses," such as the prohibition to shed blood, i.e. to break the skin, and the rule to ask the civil power, when surrendering the victim to it, not to proceed to extremes, although it was bound to burn the victim. As the system continued in practice its methods, were refined and its experts were trained. Any one who was charged must be convicted if possible. The torture produced permanent crippling or maiming. It would not do to release any one so marked with the investigation and then acquitted. Hence more and more frightful measures became necessary. Nevertheless cases occurred in which the accused held out beyond the power of the persecutors.<sup>3</sup> At Bamberg, in 1614, a woman seventy-four years old endured torture up to the third grade. After three quarters of an hour on the " Bock " she fell dead. The verdict was that she had cleared herself, by enduring the torture, of the " evidence " against her, and would have been freed if she had lived. She was to have Christian burial, and a document attesting this finding was to be given to her husband and children. Some jurists of the sixteenth and seventeenth centuries

were led to doubt about torture, but they almost all agreed that it was necessary "in some cases." These were the reformers who were careful not to be extremists. We are told that Peter of Ravenna, in 1511, urged the abolition of torture, and that Louis Vivez, a Spaniard, took the same position a little later. Neither won any attention.<sup>4</sup> In the Carolina, Charles V's law book of 1532, which was in general savage in its penalties, torture was to be applied only

<sup>1</sup> Lea, *Inquis.*, I, 560.

<sup>2</sup> *Ibid.*) 421.

<sup>8</sup> Cases given by Janssen, *Gesch\* d\* Deutschen Volkes*, VIII, 629.

<sup>4</sup> Janssen, VIII, 467.